

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Procurement of Contract Service

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Purpose

To establish the policy of the Board with regard to the condition and methods by which contracts for services in amounts exceeding \$25,000 may be entered into. Excluded are contracts involving:

1. Insurance, supplies, materials, equipment or sundry services as covered by Charter Section 705-705.3 and Administrative Code Section 400;
2. Construction contracts as covered by State law;
3. Real Property leasing as covered by Board of Supervisors' Policy F-22;
4. Selecting and contracting with private consulting firms for design, engineering, architecture, construction management, planning, mapping, surveying, and other related professional services as covered by Board of Supervisors' Policy F-40; and
5. Retention of services deemed appropriate by the County Counsel to provide advice or representation to the County or its officers or employees.

Background

Contracts for services, when properly issued and administered, are an approved method to accomplish County program objectives. Proper contracting safeguards include determining that a service contract is in the public interest, that the services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service, that appropriate competition is utilized to select contractors, that timely contract reviews are made by functional specialists, and that contract administration responsibilities are defined.

Policy

It is the policy of the Board of Supervisors that:

A. The County may contract for services when:

1. The Head of a Department has determined in writing that there is a need for the services and that such services are beyond the capability of the County staff; or when the full cost of contracting exceeds the full cost of County-operated services, it can be demonstrated that the program effectiveness, innovativeness and overall excellence outweigh the financial advantage of the County-operated service, or the cost of service cannot be recovered by the County; or

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2. The Head of a Department has determined that the County's staff is unable to perform the required work within the time the public interest requires such work to be accomplished; and
3. The Board of Supervisors concurs in such a determination; and
4. The Chief Administrative Officer has determined that services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service of the County, and the Board of Supervisors or the Purchasing Agent, as appropriate, concurs with such a determination.

B. The County will enter into personal services type contracts only when contractors employed are experts or consultants and in other cases as are specifically approved by the Board of Supervisors. Any personal services contracted for pursuant to this policy must be rendered by independent contractors. Specific criteria for determining the appropriateness of personal services contracts will be included in the Administrative Manual.

C. As with all County contracting, the preferred means for entering into service contracts is through competition.

1. Formal Competitive Bidding. Request for Bids (RFB) are to be used in all cases where tasks to be performed can be described in sufficient detail to permit prospective offerors to commit a firm bid. Award shall be made to the lowest responsive, responsible bidder. To be responsive, a bidder must satisfy all the requirements of the RFB. A responsible bidder is one who has the technical capability, financial capacity to perform as bid, has a satisfactory record of prior performance and is otherwise qualified and eligible to receive an award under applicable laws and regulations.
2. Competitive Negotiation. In cases when the description of work cannot be sufficiently detailed to permit formal bidding, Request for Proposals (RFP's) will be utilized in the solicitation process. Award shall be made to the responsible offeror whose proposal will be most advantageous to the County, price and other factors considered.
3. Noncompetitive Negotiations. Sole source contracts will be used only in cases where only one source is known or, after solicitation of a number of sources, competition is determined inadequate. A written determination to this effect will be made by the Head of the Department and concurred in by the Board of Supervisors, in accordance with Board Policy A-87, Competitive Procurement.

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D. Contracts awarded after formal bidding should be of the firm fixed price type, except that fixed price contracts with escalation may be used when some flexibility is necessary and feasible. Contracts awarded after a negotiated procurement may vary from firm fixed price, various incentive contracts to cost-plus-a-fixed-fee. The type of contracts chosen in a negotiated procurement will promote the best interest of the County. Cost-plus-a-percentage-of-cost type contracts shall not be used.

E. Service Contracts awarded under this policy shall contain a contract clause requiring full cost recovery for the investigation and audit of a contractor subsequently found to have violated the terms of the contract (material breach). Reimbursement shall include all direct and indirect expenditures incurred to conduct the audit/investigation. The contract clause(s), to be approved by County Counsel, shall include provisions that such costs be withheld from any amounts due to the contractor pursuant to the payment terms of the contract.

F. To implement the provisions of Article XXIII, Section 407 of the County Administrative Code, a Contract Review Panel will be established by the Chief Administrative Officer to consider the technical, legal, fiscal, equal employment opportunity and business aspects of all service contracts covered by this Policy. This panel will be chaired by the Director, Purchasing and Contracting, or a designated representative and will be convened on call.

The Contract Review Panel is responsible for review of all service contracts covered by this Policy prior to final review by the Chief Administrative Officer and prior to being submitted to the Board of Supervisors for approval. The CAO final review and Board approval will not be required for those service contracts that have been processed by the Director, Purchasing and Contracting under Article XXIII, Section 400 of the Administrative Code.

Minor changes in contract scope, including additional funding, contract modification, contract extension and contract termination will be initiated by the requiring department, reviewed by the Contract Review Panel, and approved by the Contracting Office so designated.

G. Charter Section 916 states, "Nothing in this Article prevents the County from employing an independent contractor when the Board or Purchasing Agent determines that services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified or Executive Services". Section 703.10 of the Charter provides that in cases where the County intends to employ an

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independent contractor, the Chief Administrative Officer shall first make the determination regarding economy and efficiency in accordance with Board Policy A-96.

H. The requiring Department Head is responsible for recommending selection of the contractor and, after the contract is awarded, has overall contract administration responsibility for the contract. The specific responsibilities of the Department Head and Program Manager are:

1. Department Head - The Department Head shall be responsible for the overall performance of the contract. This includes contract monitoring, that process which determines if the contractor is performing the contracted services, and contractor evaluation. The evaluation process will determine the effectiveness of the contractor's service delivery process and, to the extent possible, whether the delivered service is accomplishing that which the County intended. The establishment of quantifiable objectives is an essential element of the contract development process to enable evaluation.
2. Program Manager - The Program Manager is responsible for contract administration, i.e., the day-today operations of the contract which includes, but is not limited to, insuring compliance with the technical requirements of the contract and processing of contract payments. The Program Manager will also initiate requests for minor changes in contract scope which will be reviewed by the Department Head prior to consideration by the Contract Review Panel.

I. The Chief Administrative Officer shall establish the necessary review process to ensure that contractual material (proposals to contract and/or specific contracts) submitted to the Board of Supervisors is designed to accomplish the Board's objectives.

J. The Chief Administrative Officer will include in the Administrative Manual those procedures required for the implementation of this Policy. Each Department Head will establish the necessary internal procedures to ensure compliance with the provisions of this Policy and the Administrative Manual.

K. This Policy shall not apply to the retention of experts, consultants, reporting and copying services or other services deemed appropriate by the County Counsel to provide advice or representation to the County or its officers or employees. The County Counsel shall establish the necessary internal procedures to monitor the retention of such services, including the costs thereof.

Sunset Date

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This policy will be reviewed for continuance by 12-31-08.

Board Action

4-24-79 (3)
5-17-83 (57)
5-1-84 (112)
11-6-84 (4)
8-11-87 (17)
12-12-89 (49)
6-5-90 (43)
12-13-94 (61)
11-05-96 (13)
3-12-2002 (10)

CAO Reference

1. Department of Purchasing and Contracting